

Kirby Spencer,

Plaintiff,

VS.

Praxis Financial Solutions, Incorporated,  
A Foreign Corporation.

Defendant.

CASE NO.:

**COMPLAINT FOR DAMAGES FOR  
VIOLATION OF THE TELEPHONE  
CONSUMER PROTECTION ACT,  
47 U.S.C. § 227 ET. SEQ.**

## JURY TRIAL DEMANDED

COMES NOW the Kirby Spencer (Client) (“Plaintiff”), by and through his attorney, Craig K. Perry, Esq. of the law firm of Craig K. Perry & Associates, and alleges the following against Praxis Financial Solutions, Incorporated.

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. §227 *et seq.* ("TCPA").

2. Jurisdiction of this Court arises pursuant to 47 U.S.C § 227(g)(2), and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Praxis Financial Solutions, Incorporated, is an Illinois corporation (hereafter “PRAXIS”) that conducts business in the State of Nevada and therefore, personal jurisdiction is established.

4. Venue in this District is proper pursuant to 47 U.S.C § 227(e)(6)(E)(i), which incorporates by reference 28 U.S.C § 1391, of which the following subsections apply: (b)(2), because a substantial part of the events giving rise to the claim arose in Nevada, and (c)(1), because Plaintiff is a resident of the state of Nevada.

5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

## PARTIES

6. Plaintiff is a natural person residing in Henderson, Nevada.

7. Plaintiff is both a “person” and “called party” as those terms are used or defined in 47 U.S.C § 227.

8. A principal purpose of PRAXIS's business is the collection of debts.

9. PRAXIS is properly referred to as both a “person” and a “caller” as those terms are used or defined in 47 U.S.C § 227.

## STATEMENT OF FACTS

10. Plaintiff repeats, re-alleges, and incorporates by reference paragraphs 1 through 9 inclusive, above.

11. Beginning on or about September 26, 2014 thru January 21, 2014, PRAXIS contacted or attempted to contact the Plaintiff's paging service, cellular telephone service, specialized mobile radio service, radio common carrier service, or any service for which the called party is charged for the call-using a facsimile transmission, text messages, automatic telephone dialing system, artificial or prerecorded voice. Attached hereto as Exhibit "1".

12. PRAXIS does not have an established business relationship with the Plaintiff.

13. PRAXIS did not have the prior express consent of the Plaintiff before making the calls described in paragraph 11 above.

### CLAIM FOR RELIEF

## DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

14. Plaintiff repeats, re-alleges, and incorporates by reference paragraphs 1 through 13 inclusive, above.

1           15. Section 227(b)(3)(A) of the TCPA authorizes a private cause of action for a person  
2 or entity to bring in an appropriate court of that state “an action based on a violation of this  
3 subsection or the regulations prescribed under this subsection to enjoin such violation.”

4           16. Section 227(b)(3)(B), of the Act authorizes a private cause of action for a person or  
5 entity to bring in an appropriate court of that state “an action to recover for actual monetary loss  
6 from such a violation, or to receive \$500 in damages for each such violation, whichever is  
7 greater.”

8           17. Despite the fact that Plaintiff never consented to PRAXIS making calls to his  
9 cellular telephone, PRAXIS repeatedly placed non-emergency calls to Plaintiff’s cellular  
10 telephone without Plaintiff’s consent.

11           18. The Act also authorizes the Court, in its discretion, to award up to three (3) times  
12 the actual damages sustained for violations when they are done “willfully and knowingly.”

13           19. Here, upon information and belief, PRAXIS repeatedly and regularly placed non-  
14 emergency, automated calls to Plaintiff’s cellular telephone.

15           20. PRAXIS did not have Plaintiff’s express consent prior to contacting him on his  
16 cellular telephone using an automatic telephone dialing system or pre-recorded or artificial voice.

17           21. PRAXIS’s conduct violated § 227(b)(1)(A)(iii) of the TCPA by making any call by  
18 way of SMS text messaging using any automatic telephone dialing system or an artificial  
19 prerecorded voice to a telephone number assigned to a cellular telephone service.

20           WHEREFORE, Plaintiff, Kirby Spencer (Client), respectfully prays for a judgment as  
21 follows:

- 22           a. Actual damages;  
23           b. Statutory damages up to \$1,500 per violation;  
24           c. Reasonable attorney’s fees and costs; and  
25           d. Any other relief deemed appropriate by this Honorable Court.

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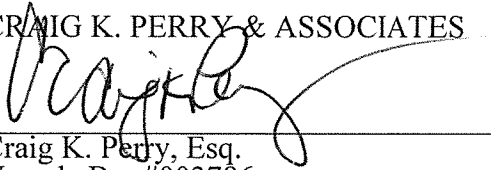
**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, Kirby Spencer (Client), demands a trial by jury in this case.

DATED, this 21<sup>st</sup> day of September 2017.

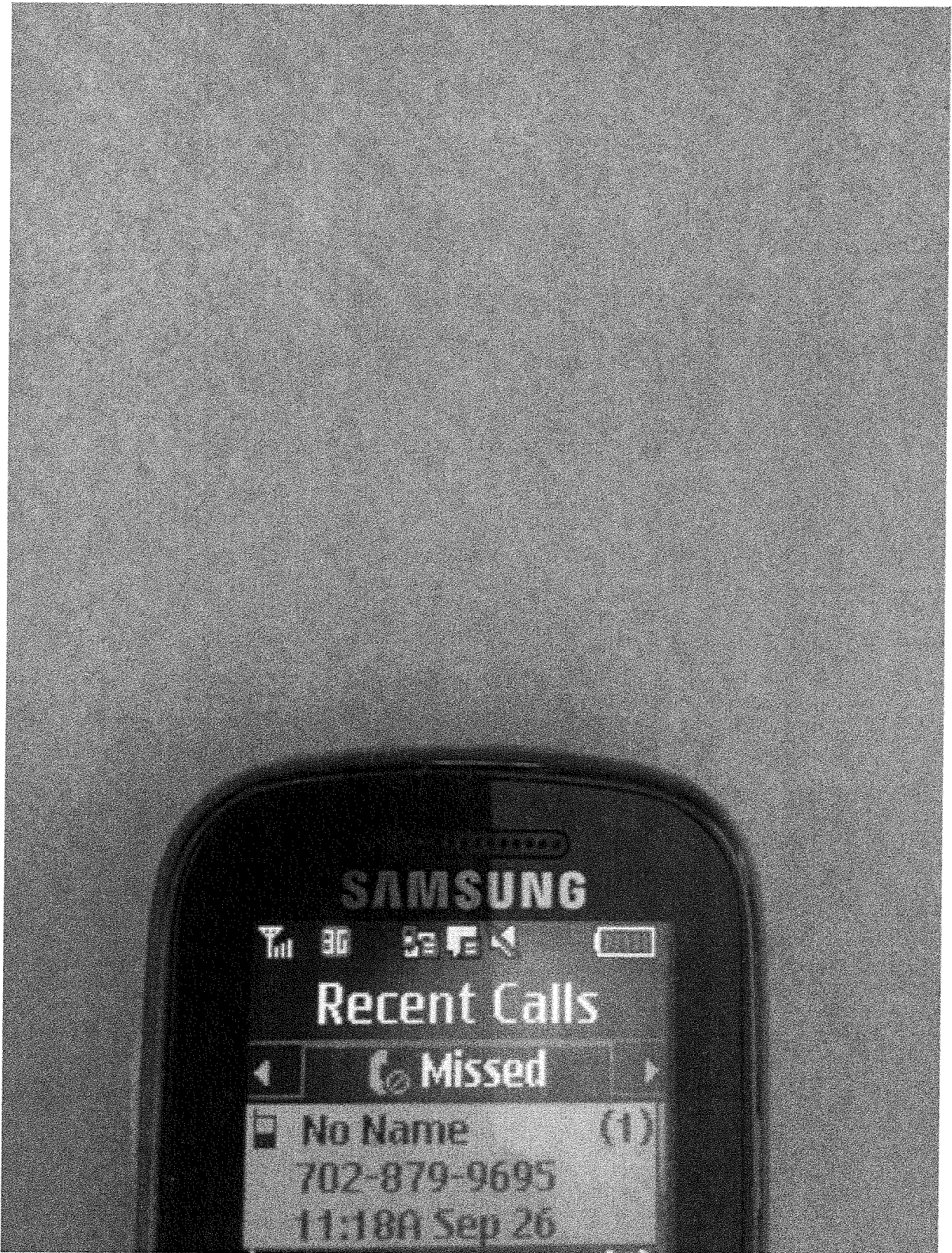
RESPECTFULLY SUBMITTED,

CRAIG K. PERRY & ASSOCIATES

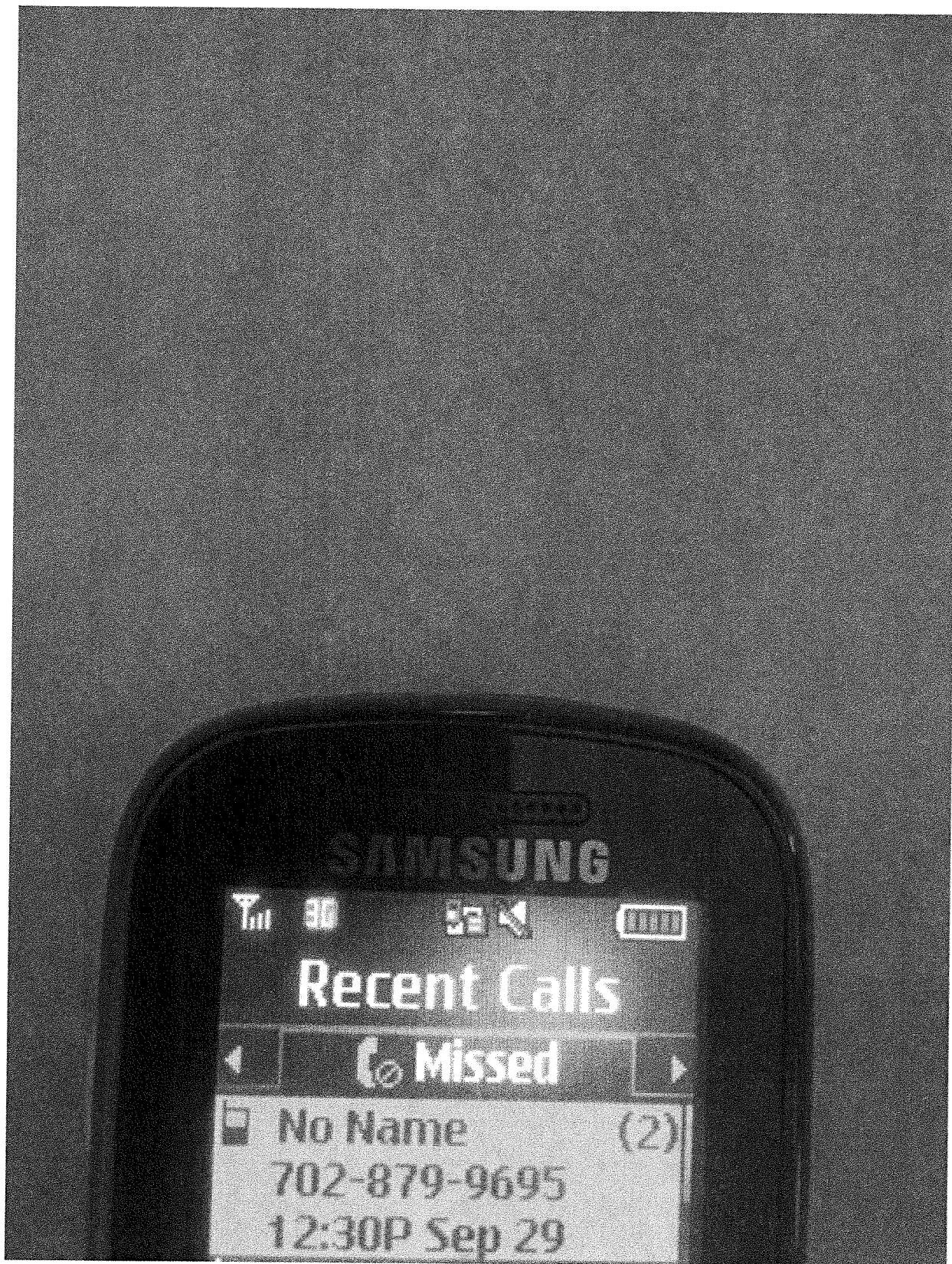
  
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Attorney for Plaintiff

**Exhibit “1”**

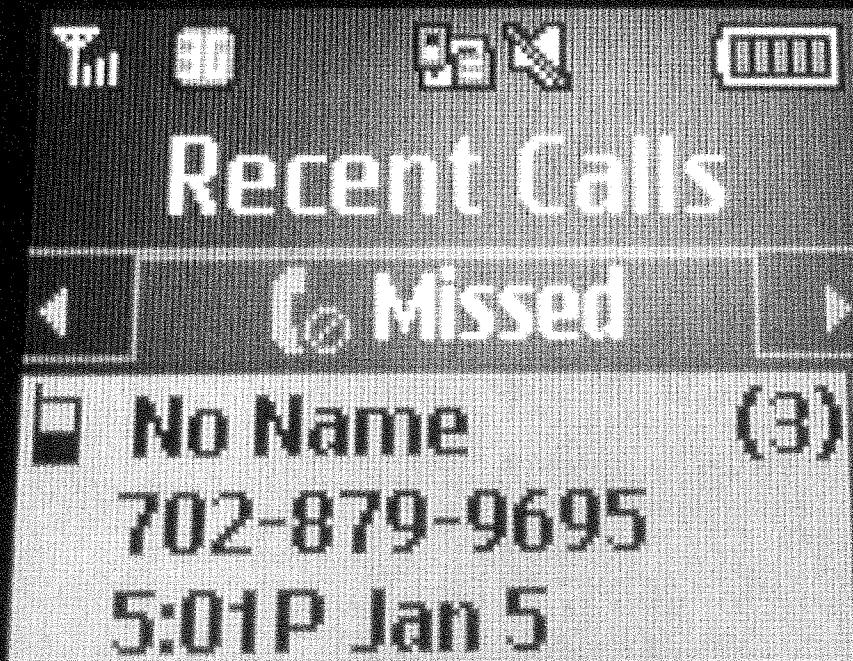














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	A	B	C	D	E	F	
1	CALL LOG						
2	CALL #	CALL DATE	CALL TIME	CALL FROM #	RESULT OF CALL	EVIDENCE	kcc
3	1	9/26/14	11:18:00	702-879-9695	hang up	pic	k
4	2	9/29/14	12:30:00	702-879-9695	hang up	pic	k
5	3	1/5/15	17:01:00	702-879-9695	hang up	pic	k
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